



Freedom of Information Policy

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POLICY/PROCEDURE

1. Introduction

The Freedom of Information Act 2000 (FOI Act) provides public access to information held by public authorities, subject to certain conditions and exemptions. It does this in two ways:

- public authorities are obliged to publish certain information about their activities; and
- members of the public are entitled to request information from public authorities.

The FOI Act covers any recorded information that is held by a public authority in England, Wales and Northern Ireland, and by UK-wide public authorities based in Scotland.

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

The FOI Act does not give people access to their own personal data. If a member of the public wants to see information that a public authority holds about them, they should make a data protection subject access request.

If a member of the public is asking for 'environmental information', the request is covered by the Environmental Information Regulations 2004.

2. Purpose

This Policy aims to provide a framework through which the University can develop a culture of openness, transparency and accountability which is promoted by the FOI Act.

3. Principles

The main principle behind Freedom of Information (FOI) legislation and this policy is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to. This is sometimes described as a presumption or assumption in favour of disclosure. The FOI Act is also sometimes described as purpose and applicant blind.

This means that:

- everybody has a right to access official information. Disclosure of information should be the default – in other words, information should be kept private only when there is a good reason and it is permitted by the Act;
- an applicant does not need to give a reason for wanting the information.
- The University must justify refusing to disclose information;
- The University must treat all requests for information equally, except under some circumstances relating to vexatious requests and personal data. The information someone can

get under the FOI Act should not be affected by who they are; and

- because all requesters should be treated equally, the University should only disclose information under the FOI Act if it would disclose it to anyone else who asked, meaning the University should consider any information released under the FOI Act as if it were being released to the world at large.

This does not prevent the University voluntarily giving information to certain people outside the provisions of the FOI Act.

4. Scope

This policy applies to all employees of the University including those who are within a probationary period. The responsibilities and organisational arrangements for the policy lie with a variety of personnel within the University, details of which can be found in section five.

University staff who fail to adhere to the terms of this policy may be subject to disciplinary action, up to and including dismissal.

5. Roles and Responsibilities

Managers are responsible for ensuring staff members within their directorate or faculty adhere to this policy at all times.

Information Asset Owners and Custodians are responsible for acting as point of contact for the Information Governance Team (unless an alternative staff member has been appointed as point of contact), when requesting information from their directorate or faculty in response to an FOI request.

Staff Members are responsible for providing information requested by the Information Governance Team in response to FOI requests, by the requested timeframes. Staff members must notify the Information Governance Team if their own team does not hold the requested information by the requested timeframe.

Staff members must forward any FOI request they or their team receives an to foi@wlv.ac.uk immediately.

The Information Rights Manager is responsible and has delegated authority for processing all FOI requests to the University made under the FOI Act and must do so in accordance with the provisions of the FOI Act.

The Information Governance Team is responsible for ensuring the University's compliance with the governing legislation, appropriate policies and guidance in place to enable the University to comply with FOI requests.

6. Receiving Requests

6.1 What makes a valid FOI request

To be valid under the FOI Act, the request must:

- be in writing. This could be a letter or email. Requests can also be made via the web
- include the applicants real name. The FOI Act treats all applicants alike, so it will not usually be required to verify their identity. However, the University may decide to check their identity if it is clear they are using a pseudonym or if there are legitimate grounds for refusing their request and we suspect they are trying to avoid this happening, for example because their request is vexatious or repeated. A request can be made in the name of an organisation, or by one person on behalf of another, such as a solicitor on behalf of a client;
- include an address for correspondence. This need not be the applicants residential or work address – it can be any address at which we can write to them, including a postal address or email address.
- describe the information requested. Any genuine attempt to describe the information will be enough to trigger the FOI Act, even if the description is unclear, or if it is too broad or unreasonable in some way. The FOI Act covers information not documents, so an applicant does not have to ask for a specific document (although they may do so). However, an applicant can ask about a specific topic and expect the University to gather the relevant information to answer their enquiry or may describe other features of the information (e.g., author, date or type of document).

The University has an obligation to provide advice and assistance to applicants. Where an applicant seems to be requesting information but has failed to make a valid FOI request, we will draw their attention to their rights under the FOI Act and tell them how to make a valid request.

Verbal requests for information cannot be accepted as valid and the University is not obliged to comply with such a request made in this manner.

A question can be a valid request for information. Under the FOI Act, if the University has information in its records that answers the question, the information should be provided in response to the request. The University is not required to answer a question if the information is not already in a recorded form.

Further information on how to make a valid request for information can be found on the University's website: <https://www.wlv.ac.uk/about-us/governance/legal-information/corporate-compliance/freedom-of-information/making-a-request/>. The University also operates an FOI request form which is available via the above link.

6.2 Environmental Information Regulations 2004

The Environmental Information Regulations 2004 (EIR) provides rights to access to information which is specific to the environment. There is a greater expectation of right of access and disclosure when environmental data is requested. Therefore, the EIR has its own exceptions to disclosure, which are subject to the public interest test. As a rule of thumb, any application which requests information

pertaining to the environment, such as emissions data, green space or ecological plans, would be considered under EIR, even if submitted as an FOI application.

The Information Rights Manager will triage all requests for information and will advise what approach should be taken.

6.3 Parliamentary Questions

Parliamentary questions are part of parliamentary proceedings and must not be treated as requests for information under the FOI Act, or under the Environmental Information Regulations 2004, as doing so would infringe parliamentary privilege.

Parliamentary questions will be referred to the University Corporate Communications Team.

6.4 Requests for clarification

If the request cannot be answered because what is being requested is unclear, the University must contact the requester as soon as possible for clarification.

The University does not have to deal with the request until reasonable clarification has been received in order to proceed with the request. The University must consider whether advice and assistance can be given to the applicant to enable them to clarify or rephrase their request.

The time for compliance will not begin until the University has received the necessary clarification to enable the request to be answered.

If a request is placed on hold and no response is received within one calendar month from the date the request was put on hold, the request will be withdrawn.

6.5 Additional time for responding to requests

The FOI Act does not allow extra time for searching for information. However, if finding the information and drawing it together to answer the request would be an unreasonable burden on University resources and would exceed the set costs limit, we may be able to refuse the request. The University may not have to confirm whether or not the information is held, if it would exceed the costs limit to determine this.

7. Responding to Requests

Once the applicant has lodged a valid request for information, they will receive correspondence to acknowledge receipt of the request. They will receive a decision notice and covering letter within 20 working days from the date of receipt of the valid request. If the request for information cannot be answered within the 20 working days compliance period, the Applicant will be informed at the earliest opportunity.

7.1 Timeframe for responding to an FOI Request

Under the FOI Act, most public authorities may take up to 20 working days to respond to a request,

counting the first working day after the request is received as the first day. Working day means any day other than a Saturday, Sunday, or public holidays and bank holidays. Within this timeframe the Information Rights Manager will allocate 10-15 working days to each department and faculties to provide the requested information. The remaining days allow time for decision notices to be drafted and for exemptions to be considered, as well as time for any required redactions to be made if required.

The time allowed for complying with a request starts when the University receives it, not when it reaches the Information Governance Team, therefore if any other member of staff or team receives an FOI request it must be forwarded to foi@wlv.ac.uk immediately.

The University may have 20 additional working days if required to consider the public interest test, however, in all other cases the applicant must be given a written response within the standard time limit for compliance.

7.2 Information does not exist

The FOI Act only covers recorded information organisations hold. When compiling a response to a request for information, the University does not have to make up an answer or find out information from elsewhere if it does not already have the relevant information in recorded form.

The University must perform adequate and properly directed searches before deciding that no information exists in response to the request.

7.3 Confirming what information the University holds

The University must confirm what information it holds, unless one of the reasons for refusing to do this applies.

The University has two duties when responding to requests for information, including to let the requester know whether the information is held and providing the information, unless there is a reason to refuse the request or withhold the information.

If the University is refusing all or part of the request, we will normally still have to confirm whether we hold the information, although a description of the information is not required.

In some circumstances, we can refuse to confirm or deny whether we hold any information. This is explained in further detail in section 9.

7.4 What format should information be given in

Normally, the University should send the information by whatever means is most reasonable, however applicants have the right to specify their preferred means of communication, in their initial request.

If the information that being disclosed is a dataset, and the applicant has expressed a preference for an electronic copy, then, so far as reasonably practicable, we must provide the dataset in a re-usable

form.

8. Refusing Requests

An applicant may ask for any information that is held by a public authority, however we are not always obliged to provide the information. An FOI request can be refused under the following circumstances:

- It would cost too much or take too much staff time to deal with the request.
- The request is vexatious.
- The request repeats a previous request from the same person.

In addition, the FOI Act contains several exemptions that allows the University to withhold information from an applicant. In some cases the exemptions will allow us to refuse to confirm or deny whether or not the information is held. This is explained further in section 8.1.

If the University is refusing all or any part of a request, we must send the requester a written refusal/decision notice. We must issue a refusal/decision notice if we are either refusing to say whether we hold information at all, or confirming that information is held but refusing to release it.

8.1 Exceeding the Appropriate Time or Cost Limit

The University can refuse to comply with a request when complying with a request would either exceed the cost or time limit for compliance with a request. The cost limit is calculated at £25 per hour. For the University, the cost limit is £450, which would equal 18 hours.

When estimating the cost of compliance, only the following can be taken into account:

- determining whether you hold the information;
- finding the requested information, or records containing the information;
- retrieving the information or records; and
- extracting the requested information from records

Staff will be asked to justify this and explain why this is the case, showing their calculations. staff may also be asked how the scope of the request can be altered so that some information can be provided. The applicant must be provided with a written refusal notice if the University is refusing to comply with their request because it would exceed the appropriate time or cost limit. There is no requirement to show how this was calculated however reasonable advice and assistance must be given to the applicant in to refine their request.

8.2 Vexatious Requests

The FOI Act allows the University to refuse a request if it is vexatious i.e., where the request is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation.

We can also refuse a request which seeks the same, or substantially the same information, as the applicant has previously requested, unless a reasonable time has passed between the requests.

Where a request is found to be vexatious, we will send the applicant a refusal notice telling them their request is vexatious or a repeat, however, if an applicant has been sent such a notice in response to an

earlier request, we are not required to send another.

8.3 Exemptions and the Public Interest Test

The University can automatically withhold information because an exemption applies only if the exemption is 'absolute'. However, most exemptions are not absolute meaning the University is required to apply a public interest test. This means we must consider whether withholding the information outweighs the public interest in disclosing it.

The public interest test involves considering the circumstances of each particular case and the exemption that covers the information but generally the balance will lie in favour of disclosure. When it is in the greater good of public interest the University will release information. The University can withhold information, for qualified exemptions, if the public interest in maintaining the exemption outweighs the public interest in disclosure.

9. Charging for information

Unless otherwise specified, information made available following a request for information will be free of charge, however the FOI Act allows public authorities, such as this University, to refuse to deal with any requests where they estimate that responding to the request would exceed the 'appropriate limit', or 'cost limit'.

The FOI Act does not allow the University to charge a flat fee but allows us to recover our communication costs, such as for photocopying, printing and postage. Photocopying will be charged at 10p per copy.

If the cost of complying with the request would exceed the cost limit referred to in the FOI Act, we can offer to supply the information and recover our full costs, including staff time, rather than refusing the request.

The cost limit is calculated at £25 per hour. For the University, the cost limit is £450, which would equal 18 hours.

If the University wishes to charge a fee, a fees notice will be sent to the applicant within the standard time for compliance. The University is not obliged to send the information until the fee has been received. If the applicant pays the fee the University will disclose the information within the time remaining.

10. Requests for Internal Review

The University follows best practice and guidance provided by the FOI Code of Practice and has a procedure in place for dealing with disputes about its handling of requests for information. These disputes will be dealt with as a request for an 'internal review'.

In accordance with the FOI Act, Applicants are informed in the original decision notice for their request for information whether the University's has an internal review procedure. The Applicant is also

informed of their right to approach the Information Commissioners Office if unsatisfied with the outcome of their internal review request.

As with initial requests for information, the applicant will be provided with an acknowledgement letter, and following the conclusion of the internal review, a covering letter and decision notice (which will detail whether the original decision has been not been upheld or upheld in full or in part).

A request for internal review needs to be made in writing. There is no prescribed word format that needs to be followed however, it needs to be expressed that the applicant is asking for such a review. It is usual practice for a request for internal review to be accepted within 40 working days of the date of the original decision notice. The University will not accept such a request after this date.

The time period for compliance with a request for internal review is 20 working days for the date of a valid request. If the internal review is complex, requires consultation with third parties or if the relevant information is of a high volume, the University may require longer than 20 working days to consider its response, in which case the applicant will be informed.

An internal review will be dealt with based on the scope of the original request. If the scope of the request for internal review needs to be clarified, the Applicant will be informed as soon as possible. The request will be placed on hold until the University is in receipt of the necessary clarifications needed and the timeframe of 20 working days to comply will be stopped. If no response is received within one calendar month from the date the request has been placed on hold it will be withdrawn.

The decision maker for the internal review will be a different person to that who undertook the original decision.

11. Complaints to the Information Commissioner Office

The Information Commissioners Office (ICO) has a general duty to investigate complaints from members of the public who believe that an authority has failed to respond correctly to a request for information.

If the complaint is not resolved informally, the ICO will issue a decision notice. If the ICO find that the University has breached the FOI Act, the decision notice will state what the University must do to rectify the situation.

The ICO also has powers to enforce compliance if the University have failed to adopt the publication scheme or have not published information as it should, whether or not we have received a complaint about this.

Complaints to the ICO can be made via the ICO website at <https://ico.org.uk/>

12. Sanctions for Non-Compliance

The University may be breaching the FOI Act by doing any of the following:

- failing to respond adequately to a request for information;

- failing to adopt the model publication scheme, or do not publish the correct information; or
- deliberately destroying, hiding or altering requested information to prevent it being released.

Deliberately destroying, hiding or altering requested information to prevent it being released is a criminal offence in the FOI Act that individuals and public authorities can be charged with.

13. Publication Scheme

As well as responding to requests for information, the University must publish information proactively. The FOI Act requires every public authority to have a publication scheme, approved by the ICO and to publish information covered by the scheme.

The scheme must set out our commitment to make certain classes of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information.

Details on what should be included in Higher Education Institutions Publication Schemes can be found on the ICO website in the Education section [here](#).

The University Publication Scheme can be found on the University website [here](#).

14. Training

All employees must undergo the mandatory FOI training annually, links to which can be found on the Organisational Development webpage [here](#).

15. Exceptions

There are no exceptions to this policy.

16. Amendments

This Policy was approved by the University's Executive Board in March 2024. The University may change this Policy at any time, and where appropriate. Where a policy is not due for review, but is found to require updating, it will remain published, unless the reasons for review render it obsolete.

17. Contact

For general queries, please contact the University Information Rights Manager by email or phone. Email: foi@wlv.ac.uk

For general queries, please contact the University Corporate Compliance Team via email: compliance@wlv.ac.uk.

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